

PURCHASING DIVISION - CHANGE IN VENDOR OF RECORD. Bob Harvey noted that Barton Brands, Ltd., of Chicago, had notified the Board that all listed Barton Brand products would have a change of supplier, effective January 1, 1984, from Barton Brands of California, Inc., to the Odom Corporation. Mr. Harvey said that the proposed change had been reviewed by Purchasing Division, and that based on price quotations received, it was concluded that the Board's retail prices would remain the same or lower. Mr. Harvey also noted that the Board would be offered special purchase allowances by Odom Corporation on items purchased "freight on board" at the Distribution Center. He recommended that the Board approve the change in vendor, with the condition that Barton continue to provide price quotations on the brands, so that the best "FOB" point for the Board and Washington consumers might be selected. After discussion, Board Member Pedersen moved that the Board approve the change in vendor. Chairman Hannah seconded, and the motion carried unanimously.

~~PUBLIC HEARING - SALES AT LESS THAN COST PROHIBITED.~~ At 10:00 a.m.

Chairman Hannah announced that at this time a public hearing would be held concerning the adoption of WAC 314-52-114, "Advertising, Offering for Sale, or Selling Beer, Wine or Spirituous Liquor at Less than Cost--Prohibited--Exceptions. He noted that the appropriate notices had been filed with the Code Reviser's Office, and mailed to various news media and interested persons. The Chairman then asked if there were any persons present who wished to speak concerning the topic, or to present any written material concerning it.

Paul Solomon, Assistant Attorney General, reviewed for those present a memorandum which he had written, dated December 5, 1983; the memorandum reviewed various alternatives to the proposed rule, which the Board might consider.

Robert A. Seeber, counsel for the Washington State Restaurant Association, then addressed the Board. Mr. Seeber said that his association favored adopting the proposed rule change, because it would continue the basic system which had been in place for many years. He said that other alternatives which have been proposed were fraught with problems, and that failure to continue the present system would result in price wars and chaos in the market place. Discussion followed.

PLAINTIFF'S EXHIBIT	
CASE NO.	CV04-0360P
EXHIBIT NO.	063

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Hal Wolf of Wolf's Shop Rite in Yelm appeared before the Board. Mr. Wolf said that he supported the proposed change and the controls on pricing which it provided. He said that without these controls the market would be bought by giants, driving all others out of business. Mr. Wolf said that in the long run the consumer would be the loser, because prices ultimately would be raised, after the competition was eliminated. Mr. Wolf particularly noted that he disagreed with the testimony concerning this rule change which had been offered by James Beaulaurier, Assistant Attorney General, during the November 23, 1983, public hearing. He said that he believed the approach advocated by Mr. Beaulaurier would result in the eventual elimination of competition in the marketplace.

Don Hargreaves of M J Foods in Everett, appeared before the Board, representing Associated Grocers, an organization of 329 independent grocery stores throughout the State of Washington. Mr. Hargreaves stated that his organization favored the passage of the proposed rule. He commented that if the larger organizations were permitted to sell below cost, the smaller business people would not be able to compete, because it is necessary for them to make a profit in order to survive. Mr. Hargreaves said that the larger businesses are able to operate at a loss for a while, driving the others out of business.

Hank Sitko of the Washington Food Dealers Association advised the Board that his organization was strongly in favor on the proposed rule. He commented that he agreed with the statements of the witnesses who had just testified. He said that failure to pass the proposed rule would wreak havoc in the marketplace.

Ross Davis, owner of two wine stores, one in Tacoma and the other in Federal Way, advised the Board that he would like to testify in support of the proposed rule. He noted that he had recently discussed the matter with several other retail merchants, and that they all supported the rule, because it would perpetuate the system which has been in place up until this time. Mr. Davis said that this system is the only one which is fair to businesses of all sizes. He also stated that he believed that lower costs for liquor would definitely stimulate consumption.

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James M. Beaulaurier, Assistant Attorney General, Consumer and Business Fair Practices Division, was next to address the Board. Mr. Beaulaurier said that the Fair Practices Division was against the rule, as originally proposed. He further stated that of the four alternatives proposed earlier in the hearing by Mr. Solomon, he preferred option No. 4. He said that contrary to "traditional wisdom" price controls such as those in the proposed rule do not serve the interests of consumers. Mr. Beaulaurier then stated that those people in the industry who had testified today in behalf of the proposed rule were asking that they be given special treatment in the competitive arena. He said that they were seeking to have liquor protected, while nothing else is protected, and he offered the examples of beans and milk as a comparison.

Jim Halstrom, Supervisor of the M.I.W. Division, commented that the proposed rule was not intended to eliminate competition; he said that it would, however, place a limit on competition. Mr. Halstrom said that the present price market for liquor products was very competitive, while allowing for some restraints on a unique, controlled product.

Chairman Hannah stated that he did not believe that the people who had testified at this hearing in favor of the rule change were asking for favored treatment. He said that he thought they were attempting to prevent themselves from being driven out of business.

Board Member Pedersen stated that he thought the testimony today in favor of the proposed rule was very persuasive. He commented that Mr. Beaulaurier's comparison to the pricing of beans and milk was not fair, because the two products are quite different from liquor in nature. Mr. Pedersen noted that the State of Washington is a liquor "control state," and that the Liquor Control Board must remember its responsibilities in this regard.

Board Member Pedersen then moved that the Board adopt the proposed rule, with the minor changes reflected in option No. 1 of Paul Solomon's memorandum, dated December 5, 1983. Chairman Hannah seconded, and the motion carried unanimously.

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